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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

June 23, 2016

#### CERTIFIED RETURN RECEIPT

7013 2250 0000 2310 2439

Lon Thomas  
Star Stone Quarries, Inc.  
4040 South 300 West  
Salt Lake City, UT 84107

Subject: Proposed Assessment for State Cessation Order No. MC-2016-42-04, Star Stone Quarries, Inc., Torrey Quarry, M/055/0016, Wayne County, Utah

#### Response Due By: 30 Days of Receipt

Dear Mr. Thomas:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order (CO). The CO was issued by Division inspector, Wayne Western, with service completed May 2, 2016 (a modification to the CO is enclosed which extends the abatement date. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$3,190.00. The enclosed worksheet outlines how the civil penalty was assessed. In addition, since this CO has not been abated, beginning June 15, 2015, a failure to abate assessment is accruing at a rate of \$750.00 per day until it is abated. You will be sent a separate assessment for this once the CO is abated.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this CO has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

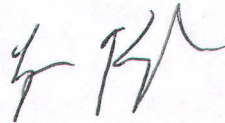


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M/055/0016  
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The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by 26, 2016).** Please remit payment to the Division, mail c/o Sheri Sasaki.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lynn Kunzler', written in a cursive style.

Lynn Kunzler  
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet, and CO modification

cc: Sheri Sasaki, Accounting

Vickie Southwick, Exec. Sec.

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**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

NOV / CO #: MC-2016-42-04

PERMIT: M/055/0016

COMPANY / MINE Star Stone Quarries, Inc. / Torrey Quarry

ASSESSMENT DATE June 23, 2016

ASSESSMENT OFFICER Lyn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

(1pt for NOV 5pts for CO)

None

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)  
(assign points according to A or B)

**A. EVENT VIOLATIONS (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?

Activity outside the permitted and bonded area.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY    POINT RANGE

None

0

PROBABILITY

POINT RANGE

Likely

10-19

Unlikely

1-9

Occurred

20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS:** Inspector indicated that this event has occurred (site permitted for 8.5 acres, GPS survey identified 12 acres of disturbance). Points assessed accordingly.

3. What is the extent of actual or potential damage?: 3.5 acres have been disturbed outside the permitted area. The Division was not able to determine exact damages to cultural and environmental resources for this expansion.

**ASSIGN DAMAGE POINTS (Range 0-25) 13**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**PROVIDE AN EXPLANATION OF POINTS:** Due to uncertainty of actual damages, and that the Division would not have had sufficient surety to reclaim (due to the additional acres of disturbance), points are assessed ant the mid-point of the range..

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS:** \_\_\_\_\_

**TOTAL SERIOUSNESS POINTS (A or B) 33**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

LEVEL of NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1 - 15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16 - 30

STATE DEGREE OF NEGLIGENCE: Greater Degree of Fault

**ASSIGN NEGLIGENCE POINTS 16**

**PROVIDE AN EXPLANATION OF POINTS:** As per the inspector's statement, the operator did not have the costs associated with submitting an amendment (or preparing a Notice of Intent to conduct Large Mining Operations), or providing the addition surety amount. Points therefore assigned at the low end of the 'Greater Degree of Fault' range.

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** No, Therefore good faith point are not assessed.

A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

**Immediate Compliance**

(Immediately following the issuance of the NOV)

Point Range  
-11 to -20

**Rapid Compliance**

(Permittee used diligence to abate the violation.  
Violation abated in less time than allotted.)

-1 to -10

**Normal Compliance**

(Operator complied within the abatement period required,  
or, Operator requested an extension to abatement time)

0

B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

**Rapid Compliance**

(Permittee used diligence to abate the violation.  
Violation abated in less time than allotted.)

Point Range  
-11 to -20

**Normal Compliance**

(Operator complied within the abatement period)

-1 to -10

**Extended Compliance**

(Operator complied within the abatement period required, or,  
Operator requested an extension to abatement time) (Permittee  
took minimal actions for abatement to stay within the limits of  
the violation, or the plan submitted for abatement was incomplete.)

0

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

**ASSIGN GOOD FAITH POINTS** 0

**PROVIDE AN EXPLANATION OF POINTS:**   

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>33</u>
III.	TOTAL NEGLIGENCE POINTS	<u>16</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>49</u>

**TOTAL ASSESSED FINE** **\$3,190.00**